

Remarks and Arguments

1. This amendment is in response to the Examiner's Final Action of
5 April 6, 2007.

2. Applicant notes that the Examiner has not established any new grounds for
rejection under 35 USC 103 beyond those established in the Office Action of
July 5, 2006. Examiner was required to specifically address each contention
10 raised by Applicant in arguments submitted on January 5, 2007. See MPEP
707.07 Applicant has not amended claims because Examiner has not
overcome Applicant's arguments as fully described infra.

3. Examiner has not responded to Applicants objective evidence – namely
15 commercial success. Applicant's first customer will only purchase a recall
receiver that is capable of operating for many years on a small battery.
Applicant proffered objective evidence and Examiner has not even
acknowledged this evidence even though such evidence must be considered
by the Examiner under Graham v. John Deere. Applicant maintains that this
20 objective evidence of commercial success overcomes any obviousness
rejection put forth by the Examiner. Since Examiner has not addressed this
objective evidence, the rejection of Claims 40 – 50 under 35 USC 103 must
be withdrawn. See MPEP 2141 Paragraph III "Objective evidence or
secondary considerations such as unexpected results, commercial success,
25 long- felt need, failure of others, copying by others, licensing, and skepticism
of experts are relevant to the issue of obviousness and must be considered in
every case in which they are present. When evidence of any of these
secondary considerations is submitted, the examiner must evaluate the
evidence."

30

4. Examiner has not responded to Applicant position that non-obviousness, in this case, is supported by recognition of the problem of battery life. Applicant is entitled to Examiner's rebuttal. Accordingly, Examiner has not overcome Applicant arguments and the rejection of Claims 40 – 50 under 35 USC 103 must be withdrawn. The transmitters in Bishop and Coffee are non-deterministic transmission systems in that these prior art transmission means do not allow a deterministic time during which a transmission can be made to a receiver. Accordingly, a receiver in Bishop or Coffee has no means by which to determine when it should be enabled to receive a signal. Examiner has not responded to this argument in any manner.

Examiner, in response to arguments, indicates that Coffee shows the use of periodic time slots. This is all well and good, but it does not mean anything here. Examiner somehow infers, again in response to arguments, that the "prior art structure is capable of performing the intended use" and therefore meets the claim. This is again simply not true. Examiner is requested to properly read and accurately represent the references. Coffee's time slots don't enable the purpose of Applicant's claims. Coffee can not perform the function of Applicant's invention – that being to receive a recall notice in many disparate products at different time slots. In Coffee, only one transmitter (a vehicle) transmits to one receiver (base) at a time. There is no broadcasting means and there is certainly no means in Coffee for broadcasting to a group of receivers during a particular time slot. Unless Examiner can provide a specific teaching of this capability in Coffee, then the Examiner has not overcome Applicant arguments and the rejection of Claims 40 – 50 under 35 USC 103 must be withdrawn. Again, Examiner must consider the reference as a whole.

How can the prior art structure of Coffee perform the function of the subject claims? Examiner purports that Coffee teaches the use of time slots in order to convey signals to a fleet of vehicles (abstract, lines 17 – 22). This is simply not true. The abstract specifically indicates that “each fleet vehicle has an assigned time slot to transmit its reporting information over a communications network without interfering with transmissions from other vehicles”. Put plainly, Coffee deals with time slots for feedback, not for a broadcasting mechanism designed to provide for bandwidth allocation amongst a disparate group of products. In Coffee, the transmission during time slots occurs from the remote devices back to a central station. This simply can not support the function claimed by Applicant, that being assigning a time slot for groups of products to receive a broadcast message at a specific time slot. In Coffee, all receivers must always remain ON. There is no means to cause a receiver either in Bishop or in Coffee to receive a message at a particular time slot. As such, Examiner’s contention that either prior art structure achieves the claimed structure is simply argumentative.

5. In the Examiners response to Applicants arguments, Examiner again puts at issue the fact that Bishop is somehow greater than just a means for triggering relays, as Applicant maintains. Examiner now states that this issue will no longer be considered. Perhaps Examiner has forgotten that his obligation is to consider the Bishop reference as a whole and that he is not allowed to cherry pick statements from the reference. *“The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination” (again, MPEP 2141).* This issue is at the heart of the matter and Examiner continues to read more into Bishop than he is allowed to do. *When read in its entirety*, Bishop is only capable of triggering relays and Examiner has only made conclusionary statements to the contrary. Applicant is entitled to a specific analysis that Examiner has yet to put forth detailing where Bishop is able to do more than trigger relays.

Applicant further notes that Bishop relies on a paging system – such a paging system could have sent more than commands to trigger relays, but Bishop never discloses this. Nor does Bishop suggest any other means of control.

5 In Bishop, Col 6; Lines 6 – 9 are specific – commands received from the paging system are forwarded throughout the vehicle and are only capable of “triggering” the warning system 7 or a relay based system. This is right out of

Bishop and Examiner refuses to address this specific point. With respect to the warning system 7, Bishop further teaches that the warning system is a

10 non-relay device (Col 5 – Lines 24 – 25) and that the warning system is triggered to select a stored warning for presentation to a user (Col 5 – Lines 53 – 56). Bishop further teaches, in Col 8 Lines 3 – 5, that there is a slave

relay unit in the warning system 7 that is used to actuate the warning device – again actuate is the same as “trigger”. This is further supported in Col 8 Lines

15 17.– 19 where a visual processor also merely selects a message from a local memory. Applicant respectfully urges the Examiner to respond to these

specific arguments with a detailed rebuttal. This issue is far from resolved.

Applicant maintains that Bishop is a triggering mechanism and nothing more.

Applicant realizes that Bishop is an extensive and poorly structured reference,

20 but this does not relieve the Examiner from the detailed analysis that is owed to Applicant.

6. Claims 40 – 50 have been rejected under 35 USC 103(a) as being unpatentable over US Patent 6,611,201 to Bishop in view of Coffee et al. US
- 25 Patent 6,611,755 (Coffee).

Applicant maintains that this rejection can not be sustained because Examiner has failed to specifically address Applicants arguments and has failed to consider objective evidence submitted by the Applicant. Because no

new grounds for rejection have been entered into the record, the rejection of Claims 40 – 50 under 35 USC 103(a) must be withdrawn.

7. All of the pending claims now distinguish patentably from the Bishop and Coffee patents, or a combination of them, by calling for a particular time slot wherein a notice message is sent. Applicant's claims call for establishing one or more time slots during which a recall signal can be received.

8. Applicant has submitted 2 new claims, Claim 51 and Claim 52, for examination. These claims are system claims that are in league with the currently pending claims. Applicant believes that these claims are also distinguishable over the prior art.

9. For the foregoing reasons, it is urged that this application is in condition for allowance. If the Examiner has any questions, he is requested that he contact Jack J'maev at 909-437-8390. Applicant thanks the Examiner again for his careful attention to this application.

Respectfully submitted,

Jack I. J'maev
Attorney for Applicant
Reg. No. 45,669

Intellectual Property Development
Customer Number 000054556
14175 Telephone Ave. Suite L
Chino, CA 91710
909-563-8400